UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/AC.47/2000/3
14 January 2000

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Open-ended inter-sessional ad hoc working group
on a permanent forum for indigenous people
Geneva, 14-23 February 2000

Information received from non-governmental organizations

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[Original: SPANISH]
[10 January 2000]

GE.00-10166 (E)

I. BACKGROUND

1. Although the world's indigenous people have been contributing for centuries, through the diversity of their cultures and forms and modes of social organization, to the enrichment of world civilization, those remaining after the past colonial hecatomb continue to be combated and marginalized from the international community.

2. Such is the irony of history that, on the threshold of the third millennium and 51 years after the Universal Declaration of Human Rights, aboriginal people still are suffering from arrogant racism and racial discrimination, the violent plundering of their lands and natural resources and the imposition of a neo-colonial model as a universal value for the world. It is disappointing to see the egoism, hypocrisy and lack of political will of the western powers of the North and the dominant elites of the South, which are trying to close the door of the temple of human rights to the victims and their defenders.

3. In the twenty-first century, a considerable part of the world's population is being unjustly marginalized in economic, political and social life and left unprotected by international human rights norms. According to United Nations estimates and reliable accounts, more than 350 million indigenous people are being excluded on a concerted basis from the international community and deprived of the right to participate in regional and international forums on indigenous issues because the grass-roots organizations representing them have not, in the vast majority of cases, been granted consultative status by the Economic and Social Council.

4. With a view to remedying this anomaly the World Conference on Human Rights (1993), in the Vienna Declaration and Programme of Action, urged States to consider, as a matter of priority, the establishment of a permanent forum for indigenous people within the United Nations system.

5. The Vienna World Conference called on States and United Nations bodies to ensure the full and free participation of indigenous people in all aspects of society, in particular in regional and international forums, in matters directly or indirectly affecting their rights and freedoms.

6. Following the permanent principles of universality, indivisibility, interaction and interdependence of human rights and fundamental freedoms, the General Assembly reaffirmed, in its resolutions 48/163 of 21 December 1993 and 52/108 of 12 December 1997, the objectives of the International Decade of the World's Indigenous People, which inter alia consist in opening the doors of the United Nations to indigenous nations.

7. The call for States to give special attention to the creation of a permanent forum capable of responding to the centuries-old demand of millions of indigenous people, has been reflected in various resolutions of the Commission on Human Rights. In this connection, at its fifty-fourth session, the Commission on Human Rights decided to establish an open-ended ad hoc working group with the exclusive mandate of elaborating and examining concrete proposals from Governments and indigenous people for the rapid establishment of the permanent forum.

8. The irreversible incorporation of indigenous people as subjects of law should become part of the movement of decolonization of dependent peoples, in particular in the process of democratization of the United Nations system and the rationalization of human rights mechanisms.

9. In the forward march of history, the permanent body would be able to contribute to remedying one of the most anachronistic injustices of western civilization, guaranteeing the effective participation of aboriginal peoples and nations that are excluded from the international community, treated as second-class citizens in their own countries, dispossessed of their lands and denied the enjoyment of their natural wealth and resources.

10. Through the establishment of an appropriate mechanism accessible to all aboriginal communities, there should finally be recognition of the concept of "peoples" not simply in ethnic or cultural terms, but as political, social and cultural entities. This was the reason for the proclamation of the International Decade, whose aim is "the solution of problems faced by indigenous people in such areas as human rights, the environment, development, health, culture and education".

11. Given the ever-increasing range of standard-setting and operational activities of the United Nations, only the creation of an effective mechanism can ensure the participation of indigenous peoples. In essence, what needs to be instituted is a permanent mechanism - not just another bureaucratic body, but an advisory, decision-making and functional organ, i.e. a free and democratic forum for all those without a voice, having a permanent secretariat and adequate resources provided from the regular budget of the United Nations.

II. MANDATE OF THE FORUM

12. By virtue of its quite precise and broad mandate in the field of economic, social and cultural rights as well as civil and political rights, the permanent forum should be established at the highest level within the United Nations system.

13. An encouraging consensus seems to have emerged from the discussions at the last session of the open-ended working group. The forum should be one of the subsidiary organs of the Economic and Social Council, with the broadest mandate to deal with all matters affecting indigenous populations, such as peace and collective security for the survival of indigenous people, the right to sustainable development, the environment, health, education, etc.

14. After an objective consideration of items on the agenda, its members should adopt decisions within their terms of reference and make recommendations to the Secretary-General of the United Nations and the Economic and Social Council through the Commission on Human Rights.

15. In essence, the permanent forum for indigenous people should have functions and powers to:

(a) Examine, as a matter of priority, problems related to the right to free and sustainable development and the right to collective ownership of the land and demilitarization of indigenous territories with the aim of revitalizing ancestral modes of production and guaranteeing indigenous people the enjoyment of their wealth and natural resources;

(b) Carry out studies and research aimed at determining the causes of disharmony between man and nature and constant environmental degradation and pollution of the air and water, and adopting measures to preserve the earth through the promotion of forms and modes of social organization derived from ancestral civilizations;

(c) Examine, as appropriate, social phenomena such as racism, racial discrimination, social exclusion, xenophobia, extreme poverty, rural outmigration, health, infant and child mortality, education and the protection of intellectual property (medicinal plants). These wide-ranging issues should, of course, be addressed in close relation to and interdependence with the structural adjustment policies imposed by the international financial institutions;

(d) Promote, coordinate and evaluate action programmes for the International Decade of the World's Indigenous People through the Voluntary Fund for the Decade and the Fund for the Development of Indigenous Peoples of Latin America and the Caribbean and other humanitarian contributions, both public and private;

(e) Elaborate strategies for development as an alternative to the prevailing neo-liberal model with a view to safeguarding the aboriginal communities threatened with extinction, and report on their socio-economic conditions and extreme poverty resulting from the unlawful seizure of land and natural resources by the transnational corporations installed in their territories. With respect to the process of globalization and excessive privatization of means of production, the forum could contribute to the elaboration of mechanisms and legal norms to regulate the activities of the transnational corporations;

(f) Examine, as a matter of priority, reports, accounts and complaints about violations of human rights and fundamental freedoms in indigenous territories and make recommendations to the Secretary-General and to the Economic and Social Council through the Commission on Human Rights. The forum should work in close coordination with other existing mechanisms dealing with human rights violations with a view to having recourse, where required, to the International Criminal Tribunal against the alleged perpetrators of grave violations;

(g) Resolve by peaceful means the differences and disputes that may arise between indigenous people and Governments, in accordance with the Charter of the United Nations, whose primary objective is the maintenance of peace, peaceful work and mutual cooperation among peoples;

(h) Create working groups made up of indigenous experts and governmental representatives with the mandate to supervise the implementation of the declaration to be adopted in the framework of the Decade, International Labour Organization (ILO) Convention No. 169 and other applicable international instruments, and submit their conclusions to the Economic and Social Council through the Commission on Human Rights;

(i) Organize a world conference on the right to self-determination, land and permanent sovereignty over natural wealth and resources; at the same time, promote seminars, workshops and round tables on the multiple facets of indigenous issues, preferably in countries with a large indigenous population, in order to disseminate the ideals of the United Nations;

(j) Advise organizations of the United Nations system, Governments and indigenous organizations on the formulation of development policies and the elaboration of strategies for the utilization of natural, financial and human resources; and, for this purpose, invite the indigenous parliament, eminent indigenous figures and academics to undertake a broad discussion with a view to evaluating the activities of the permanent forum and the degree of effective participation of aboriginal people within the United Nations system.

III. STRUCTURE OF THE FORUM

16. The forum should be constituted as a joint body subject to the criterion of equitable geographical distribution and made up of governmental and indigenous representatives. Its doors should, however, be open to the democratic participation of States, specialized agencies, non-governmental organizations, independent experts, academic figures and indigenous people as observers:

(a) The permanent forum should be made up of 22 or more members with the right to speak and vote, as follows: 10 governmental representatives, 10 indigenous representatives, and one representative of the Secretary-General and another of the High Commissioner for Human Rights;

(b) In application of the principle of geographical distribution to ensure equitable representation at regional level, the composition of indigenous representatives should be as follows: two from South America, two from Central America and the Caribbean, two from the United States and Canada, one from Australia, one from the Nordic countries and one from the aboriginal peoples of the North of Russia, one from Asia and another from Africa;

(c) The indigenous candidates elected by their grass-roots organizations at local, national and regional level should be recognized as indigenous and meet the following conditions: they should be persons of irreproachable integrity, moral authority and recognized competence in the indigenous movement. Above all, the candidates should possess a wide experience and considerable knowledge of indigenous problems and should be independent of any political pressure;

(d) Governmental and indigenous members should be appointed by the Economic and Social Council by consensus and in accordance with the established procedures. Indigenous candidates could be nominated from a list prepared and submitted by their regional organizations to the Economic and Social Council through the Commission on Human Rights and subject to its recommendation;

(e) Indigenous members should be entitled to speak and vote in the deliberations on a representative basis, not only on behalf of their respective communities and organizations, but for all aboriginal nations;

(f) Governmental and indigenous candidates should be confirmed in office, by decision of the Economic and Social Council and on the proposal of the Commission on Human Rights, for a period of three years with the possibility of being re-elected for a second term;

(g) Unless otherwise decided, the forum could meet for two weeks each year in the city of Geneva and, preferably, in countries with a larger or smaller indigenous population and adopt its decisions by a majority vote of all members present and voting;

(h) Place within the United Nations system: the permanent forum should be a subsidiary body of and accountable in its activities to the Economic and Social Council, should be attached to the Office of the High Commissioner for Human Rights and be based in the city of Geneva;

(i) Procedure: as a consultative body and by virtue of its decision-making, advisory and functional character, the permanent forum should have an independent secretariat consisting of at least four staff members, two of whom should be indigenous persons of high ranking;

(j) Functioning: the functioning of the forum should be subject to rules of procedure adopted in accordance with established practice, including a method for electing its officers;

(k) Financial implications: in the implementation of its activities and pursuant to its very broad mandate and specific terms of reference in the field of economic, social and cultural rights and related rights, the permanent forum should be provided with adequate financial, technical and human resources through the regular budget of the United Nations, the Office of the High Commissioner for Human Rights and voluntary contributions from the international community.